

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
SEPTEMBER 8, 2021**

**CALL TO ORDER
6:00 PM**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. in 2nd Floor Conference Room of the South Campus Building, 40 11th Street West, Suite 200 Kalispell, Montana. Board members present were Sandra Nogal, Greg Stevens, Mike Horn, Jeff Larsen, Elliot Adams, Verdell Jackson, Kevin Lake, Buck Breckenridge, and Tyler Hoffman. Erik Mack, Laura Mooney, and Donna Valade represented the Flathead County Planning & Zoning Office.

There were approximately 16 members of the public in attendance and 2 members in attendance via Zoom.

**APPROVAL OF
MEETING
MINUTES
6:01 PM**

Breckenridge made a motion, seconded by Jackson, to approve the August 11, 2021 meeting minutes.

Motion passed unanimously on a roll call vote.

**PUBLIC
COMMENT
(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:01 PM**

None

**DISCLOSURE OF
ANY CONFLICT
OF INTERESTS
6:01 PM**

Breckenridge recused himself from FZC-21-15 as he worked for the firm representing the applicant.

**MAUREEN KUNZ
(FZC-21-12)
6:02 PM**

A zone change request from Andy Belski of River Design Group, Inc., on behalf of Maureen L. Kunz, for property within the Blanchard Lake Zoning District. The proposal would change the zoning on property located at 126 Soaring Eagle Drive and assessor #0977569 near Happy Valley, from AG-20 (Agricultural) to R-2 (One-Family Limited Residential) and B-2 (General Business). The proposed acreage from AG-20 to R-2 is approximately 18.87 acres while the proposed acreage from AG-20 to B-2 is approximately 8.97 acres for a total acreage of approximately 27.852 acres.

STAFF REPORT
6:03 PM

Donna Valade reviewed staff report FZC-21-12 for the board.

**BOARD
QUESTIONS**
6:05 PM

None

**APPLICANT
PRESENTATION**
6:05 PM

Bill Kunz and Maureen Kunz, 328 Karrow Ave., were the applicants. They summarized the proposal and expressed that they felt everyone would benefit from more residential. They could not do anything with their AG-20 property.

**BOARD
QUESTIONS**
6:06 PM

None

**AGENCY
COMMENTS**
6:06 PM

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT**
6:07 PM

Craig Kemp, 1937 Hodgson Rd., spoke in the opposition of the application. He was concerned that the easement needed to be resolved prior to any rezoning or development.

Cole Blackwell, *no address given*, spoke in opposition of the application. They were building a spec home at the end of Soaring Eagle Dr. He questioned what the intent of the zone change would be and stated he would want a buffer between his property and a subdivision.

**APPLICANT
REBUTTAL**
6:09 PM

Bill Kunz said he had not heard from any of the neighbors and was open to mitigating any concerns with them.

**STAFF
REBUTTAL**
6:10 PM

None

**BOARD
QUESTIONS**
6:10 PM

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-21-12)**
6:10 PM

Stevens made a motion, seconded by Jackson, to adopt staff report FZC-21-12 as findings of fact.

**BOARD
DISCUSSION
6:10 PM**

Breckenridge wondered if they should address the concerns that had been brought up. It was decided that they would do that after they voted on the findings of facts.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-21-12)
6:11 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FZC-21-12)
6:12 PM**

Stevens made a motion, seconded by Jackson, to recommend approval of FZC-21-12 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:12 PM**

Stevens addressed some of the concerns brought up during public comment. The request to have a buffer set up, which he acknowledged would be a reasonable thing to talk about, was a part of the subdivision review and could not be addressed at the zone change process. He further explained when these things were addressed procedurally.

Stevens also addressed the concern over easements and making sure issues were resolved prior to zone change. He explained they could not condition a zone change, however, it could be conditioned, if there were not adequate legal access to the parcel, at subdivision review.

Stevens felt the zone change seemed appropriate. There were always people in favor of and in opposition of zone changes. The Planning Board had to keep in consideration development for people to live, work, worship, and play. He wondered if, in the past, there were too many regulations that confused the issue. He acknowledged the housing crisis we are having right now. Zone changes increased the amount of land available. Out of necessity, that increased the density, which people generally disapproved of. He concluded the zone change appeared to be an appropriate one.

Larsen said that he looked to see if the zone change met the criteria, which the staff report showed as favorable. He addressed Blackwell and said the board did not ask the applicants for their intent behind zone changes; development plans came at the subdivision review. They do, however, have to provide legal and physical address to the property. They have to show that they have a proper easement. This application appeared to meet the statutory criteria.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-21-12)
6:20 PM**

Motion passed unanimously on a roll call vote.

**THOMAS
OBERLITNER
(FZC-21-13)
6:21 PM**

A zone change request from Sands Surveying, Inc. on behalf of Thomas H. Oberlitner for property within the Rural Whitefish Zoning District. The proposal would change the zoning on property located at 222 Wintercrest Drive, near Kalispell, MT from SAG-10 (Suburban Agricultural) to R-2.5 (Rural Residential) on approximately 5.005 acres.

**STAFF REPORT
6:22 PM**

Laura Mooney reviewed staff report FZC-21-13 the board.

**BOARD
QUESTIONS
6:24 PM**

Larsen asked why they were changing to R-2.5. Staff explained that they had 5 acres.

**APPLICANT
PRESENTATION
6:24 PM**

Tom Oberlitner, 36 Wintercrest Ridge, was the applicant. He explained the intent behind the zone change, which was to give land to his son and family. He described the surrounding zoning and he felt it was not out of character for the neighborhood.

**BOARD
QUESTIONS
6:26 PM**

Adams asked if they had a road agreement in place. Oberlitner said that there was an ADHOC Road Association that did not have much teeth. They had tried to get a road association agreement and had fallen short of getting majority involvement.

**AGENCY
COMMENTS
6:27 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
6:28 PM**

Cinda Punyer, 244 Wintercrest, spoke in favor of the application.

Steve Smith, 2998 Whitefish Stage Rd., spoke in opposition of the proposal. He was not opposed to them splitting the property but was concerned about the road usage and easement. He discussed the history of the road and maintenance. He discussed the traffic impact on the road and said it was not made for 27 houses and felt the access needed to come from somewhere else.

Jeremy Peterson, 195 Wintercrest, clarified there had been an effort to put a road maintenance agreement in place. The applicant had said they were willing to participate. There were a lot of people trying to get something put together.

**APPLICANT
REBUTTAL**
6:34 PM

None

**STAFF
REBUTTAL**
6:34 PM

None

**BOARD
QUESTIONS**
6:34 PM

None

**MAIN MOTION
TO ADOPT F.O.F.**
(FZC-21-13)
6:34 PM

Breckenridge made a motion, seconded by Adams, to adopt staff report FZC-21-13 as findings of fact.

**BOARD
DISCUSSION**
6:34 PM

None

**ROLL CALL TO
ADOPT F.O.F.**
(FZC-21-13)
6:35 PM

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL**
(FZC-21-13)
6:35 PM

Breckenridge made a motion, seconded by Nogal, to recommend approval of FZC-21-13 to the Board of County Commissioners.

**BOARD
DISCUSSION**
6:35 PM

Adams reiterated that the board was not able to put conditions on zone changes. He was sad to see neighbors not taking care of the road and stated the people using it needed to show respect for it. He encouraged them to try to put together a road maintenance agreement.

Stevens addressed the concern over the easement and described how he had personally addressed his own easement issues in the past. The board, however, could not address easements if they were over private property.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-21-13)
6:42 PM**

Motion passed unanimously on a roll call vote.

**GARDNER
BALDWIN
(FZC-21-14)
6:43 PM**

A zone change request from River Design Group, Inc. on behalf of Gardner Baldwin for property within the Prairie View Zoning District. The proposal would change the zoning on property located on Prairie View Road a ½ mile north of KM Ranch Road, near Whitefish, MT from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural) on approximately 20 acres.

**STAFF REPORT
6:43 PM**

Eric Mack reviewed staff report FZC-21-14 for the board.

**BOARD
QUESTIONS
6:46 PM**

None

**APPLICANT
PRESENTATION
6:46 PM**

Andrew Belski with River Design Group, 733 Denver St, was the representative for the applicants. They were in agreement with the staff report and were available for questions.

**BOARD
QUESTIONS
6:47 PM**

Breckenridge asked how long the applicant had owned the property. Belski was unsure.

**AGENCY
COMMENTS
6:47 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
6:47 PM**

Jeffrey Cunningham, 1915 Whitefish Village Dr., spoke in opposition of the application. He explained that there was litigation involved over access. It was abundantly clear that there was going to be more coming through the south and through their property. He wanted it well stated that the opposition was well founded and this was exactly what they were worried about. Their hope was that, should this be approved, the access would be off of Prairie View Rd.

Olga D., 1447 N. Prairie View Rd., spoke in opposition of the application. She was concerned over the negative impact that more development would have on the wild life. She was concerned that there would not be a buffer between the development and her 10-acre parcel. She was concerned that the prevailing use of the area would be affected by more development, including the possibility of manufactured homes, and RV Parks. She called the

construction zone a war zone. She was concerned about road maintenance.

George W., 1447 W Prairie View Rd., spoke in opposition of the application. He knew of the litigation in the area. He discussed the development that had occurred overnight. He said the [applicants] only wanted was increase their profit and felt that they were being inconsistent. He said the [applicants] wanted to be “all things to all people” but that was impossible. He was saddened that the area had been developed the way that it had but felt like these additional homes were salt in a wound. He agreed with Olga about the dirt road and said the additional homes would have a very negative impact and would be a danger should it be allowed.

**APPLICANT
REBUTTAL
6:58 PM**

None

**STAFF
REBUTTAL
6:58 PM**

None

**BOARD
QUESTIONS
6:58 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-21-14)
6:58 PM**

Lake made a motion, seconded by Jackson, to adopt staff report FZC-21-14 as findings of fact.

**BOARD
DISCUSSION
6:59 PM**

Breckenridge wanted to bring up FOF #2 which addressed fire safety. He said that it looked like a lot of the areas had been cleared and the fire hazard had been minimized but this property was overgrown. He wanted to amend F.O.F. #2 by striking the last part of the last sentence.

**MOTION TO
AMEND F.O.F. #2
7:00 PM**

Breckenridge made a motion, seconded by Adams, to amend Finding of Fact #2 to state:

The proposed map amendment could impact safety from fire and other danger because the property is located in the WUI and county wide priority area, and not located within a fire district, ~~however, the zone change has the potential to add only three lots.~~

**BOARD
DISCUSSION
7:01 PM**

Stevens liked having that information in there and felt it was pertinent information for people who were going to develop the area.

**ROLL CALL TO
AMEND F.O.F. #2
7:02 PM**

Motion passed on a 6-3 roll call vote. Horn, Nogal, and Stevens dissented.

**BOARD
DISCUSSION
7:02 PM**

Larsen had flagged F.O.F. #2 and #3. Those two findings were a concern. He agreed with the staff as it was written. The board would need to address these concerns during the board discussion on whether or not they should recommend approval or denial of the zone change. He was in agreement with the findings [as amended].

**ROLL CALL TO
ADOPT F.O.F.
(FZC-21-14)
7:04 PM**

Motion passed on an 8-1 roll call vote. Horn dissented.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FZC-21-14)
7:04 PM**

Stevens made a motion, seconded by Jackson, to recommend approval of FZC-21-14 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:05 PM**

Adams wished to address the public comments stating “it was out of character for the area” and a “war zone”. He said that the surrounding area was zoned SAG-5 and some were SAG-10 (which might be legal non-conforming). He did not feel it was out of character.

Jackson felt they needed to be careful to not predict the future. He felt a lot public comment was in regards to fear of the future. They had to look at what was before them today. He encouraged them to initiate a road agreement.

Larsen said he looked into health and safety issues and if the application met criteria. He felt the applicant could have worked to address the fire safety issue. That was his major concern and could have been addressed by annexing into the fire district or doing some thinning. It was under the statutory criteria and it was something that the Board needed to look at. He was not going to vote to support it.

Breckenridge agreed with Larsen. Being annexed in [the fire district] would be great but even cleaning it up would also be beneficial. It was unfortunate that they could not condition it with approval if it met conditions.

Stevens understood the issues and ramifications but did not see anybody doing the work before they knew if the application was going to be approved or denied. He was not in favor of tabling an application until a time where they addressed the issue.

Larsen agreed that they should not table but felt that people should address the health and safety issues before they approve a zone change. Stevens agreed with that. Steven asked how they would address it. Larsen said it either had to meet the criteria or not. Those things could be addressed. Stevens said that they could be and should be addressed.

Stevens point was that the fire danger was presently there and a zone change was not going to change that. He felt it should be conditioned at the subdivision review.

Nogal felt they had an obligation to address the fire danger because it was part of the report and was addressed as such. She felt it was a criteria that needed to be met. Nogal also expressed her frustration with the applicant, the access issues, and the inconsistency of what they say the access will be. She was not willing to take the step, and a leap of faith, with this particular piece of property and this particular applicant.

Breckenridge understood it could be addressed at subdivision review but was concerned that it would be split through an exemption (family transfer) which was why he felt it needed to be addressed at this point.

Larsen felt, that if it was part of the statutory criteria, then it should be addressed.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-21-14)
7:16 PM**

Motion failed on a 3-6 on a roll call vote. Larsen, Nogal, Breckenridge, Hoffman, Adams, and Horn dissented.

**BRIAN BROWN
(FZC-21-15)
7:18 PM**

A zone change request from Breckenridge Surveying and Mapping Inc., on behalf of Brian M. Brown and Teresa M. McAllister for property within the Lower Side Zoning District. The proposal would change the zoning on property located at 1380 Lower Valley Road, Kalispell, MT from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural) on approximately 19.55 acres.

**STAFF REPORT
7:18 PM**

Donna Valade reviewed staff report FZC-21-15 for the board.

**BOARD
QUESTIONS
7:20 PM**

None

**APPLICANT
PRESENTATION
7:20 PM**

Rick Breckenridge with Breckenridge Surveying, 2302 US HWY 2 E, represented the applicants. Breckenridge passed out a map, see attached, and discussed the non-conforming uses in the area. He read from the Growth Policy. He discussed his reasoning why they were requesting the zone change and stated AG-20 was residential and this was a good place for SAG-5.

**BOARD
QUESTIONS
7:25 PM**

Nogal asked how many parcels they could get out of it and he stated 3.

**AGENCY
COMMENTS
7:27 PM**

There were no public agencies present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT
7:27 PM**

Brian Brown, 1380 Lower Valley Rd., spoke in favor of the application as he was the applicant. He summarized his intent to give some of the property to his neighbor and continue to farm the land.

Stevens conversed with Brown on whether or not he had, or knew of anybody, who had hay for sale.

**BOARD
QUESTIONS
7:29 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-21-15)
7:29 PM**

Adams made a motion, seconded by Nogal, to adopt staff report FZC-21-15 as findings of fact.

**BOARD
DISCUSSION
7:30 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FZC-21-15)
7:30 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FZC-21-15)
7:30 PM**

Adams made a motion, seconded by Nogal, to recommend approval of FZC-21-15 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:30 PM**

Adams felt it was a good thing and fixed the issue of non-conforming zones. It did not make any sense to have a parcel with 19 acres to be zoned AG-80. He felt it was a good thing.

Stevens discussed the history of AG-80 zoning coming from the 1986 Kalispell City-County Growth Plan. He felt it stole property rights because there had to be 160 acres in order to make a land split. It had been counterproductive for a long time and did not have much thought put into it, in a planning sense, when they put it in where they did. It caused a lot of problems. Anytime he could reasonably get rid of AG-80, he gave it serious consideration.

Horn said they had the same issues in West Valley.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-21-15)
7:33 PM**

Motion passed unanimously on a roll call vote.

**OLD BUSINESS
7:33 PM**

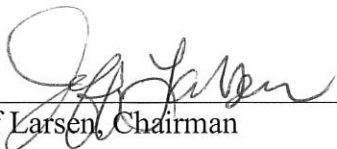
Larsen asked if they were going to go over the Strategic Work Plan. Klempel had come to his workplace and ask if they could have a workshop with the BOA to discuss short term rental regulations. They discussed this at great length. They continued to discuss this and the strategic work plan at great length. It had been decided that, because next month's meeting only had 2 agenda items, that they would like to proceed with a workshop with the BOA right after the meeting adjourned.

**NEW BUSINESS
7:42 PM**


Valade announced that she will be moving to the private sector.

**ADJOURNMENT
7:45 PM**

The meeting was adjourned on a motion by Nogal and Jackson at approximately 7:45 p.m. The next meeting will be held October 13, 2021.

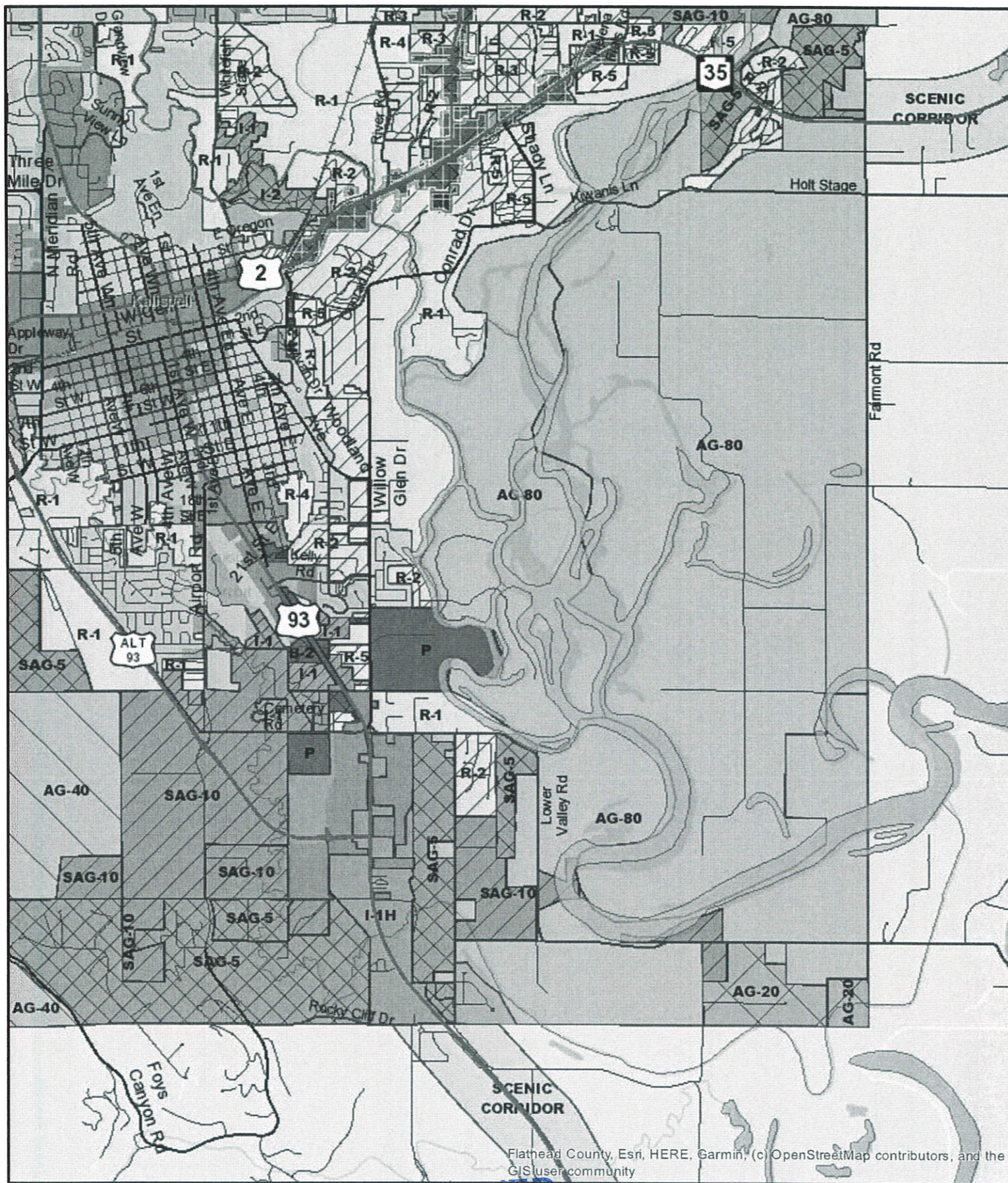


Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 10/13/21



Flathead County, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

Flathead County GIS Department



800 South Main Street
Kalispell, Montana 59901

RECEIVED

SEP 10 8 2021

AT PUBLIC HEARING

0 0.35 0.7 1.4 2.1 2.8 mi



The areas depicted on these maps are for illustrative purposes only and do not necessarily meet mapping, surveying, or engineering standards. Deriving conclusions from this map is done at the user's assumed risk.